

AMENDED IN SENATE MARCH 30, 2005

**SENATE BILL**

**No. 1068**

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**Introduced by Senators Escutia and Bowen  
(Coauthors: Senators Alarcon and Figueroa)**

February 22, 2005

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An act to add Article 11 (commencing with Section 905) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Escutia. Telecommunications: consumer protection.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Pursuant to existing law, the commission adopted a general order applicable to all commission-regulated telecommunications utilities known as the telecommunications consumers' Bill of Rights.

This bill would state the intent of the Legislature to establish consumer protections that are at a minimum, as protective as those originally adopted by the commission in the telecommunications consumers' Bill of Rights. The bill would require that the commission, by July 1, 2006, develop and enforce consumer protection rules for telecommunications service, including mobile telephony services, as defined, that achieve certain policies and meet specified requirements. The bill would additionally require that the commission, by July 1, 2006, develop and enforce consumer protection rules for charges for noncommunications services on telephone corporation billings, that meet specified requirements.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Certain provisions of this bill would be part of the act and an order or other action of the commission would be required to implement certain of the provisions. Because a violation of the bill's provisions or of an implementing order or decision of the commission would be a crime, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 11 (commencing with Section 905) is  
2 added to Chapter 4 of Part 1 of Division 1 of the Public Utilities  
3 Code, to read:

4  
5 Article 11. Telecommunications Bill of ~~Right~~ *Rights*  
6

7 905. (a) It is the intent of the Legislature to establish  
8 consumer protections that are at a minimum, as protective as  
9 those originally adopted by the commission in Decision  
10 04-05-057.

11 (b) For purposes of this section, ~~mobile~~ *the following terms*  
12 *have the following meanings:*

13 (1) "Mobile telephony services" means commercially  
14 available interconnected mobile phone services that provide  
15 access to the public switched telephone network (PSTN) via  
16 mobile communication devices employing radiowave technology  
17 to transmit calls, including cellular radiotelephone, broadband  
18 Personal Communications Services (PCS), and digital  
19 Specialized Mobile Radio (SMR). "Mobile telephony services"  
20 does not include mobile satellite services or mobile data services  
21 used exclusively for the delivery of nonvoice information to a  
22 mobile device.

1 (2) “Contract” means an agreement to supply products or  
2 perform services for compensation, and includes a customer  
3 service agreement for tariffed services.

4 (c) The commission shall, by July 1, 2006, develop and  
5 enforce consumer protection rules for telecommunications  
6 service, including mobile telephony services, that achieve all of  
7 the following policies:

8 (1) A consumer has a right to receive clear and complete  
9 information about rates, terms, and conditions for available  
10 products and services, and to be charged only according to the  
11 rates, terms, and conditions to which the consumer has agreed.  
12 *This includes the right to receive available contracts and*  
13 *disclosures in the same language as used in the marketing of the*  
14 *product or service.*

15 (2) A consumer has a right to select services and vendors, and  
16 to have the consumer’s choices respected by telecommunications  
17 service providers.

18 (3) A consumer has a right to personal privacy, to be protected  
19 from unauthorized use of the consumer’s records and personal  
20 information, and to reject intrusive communications and  
21 technology.

22 (4) A consumer has a right to participate in public policy  
23 proceedings, to be informed of his or her rights and what  
24 agencies enforce those rights, and to have effective recourse if  
25 his or her rights are violated.

26 (5) A consumer has a right to accurate and understandable  
27 bills for products and services authorized by the consumer, and to  
28 fair, prompt, and courteous redress for problems the consumer  
29 encounters.

30 (6) A consumer has the right to be treated equally with all  
31 other similarly situated consumers, free of prejudice or  
32 disadvantage.

33 (7) A consumer has a right to safety and security of person and  
34 property.

35 (d) The rules adopted by the commission pursuant to  
36 subdivision (c) shall include all of the following requirements:

37 (1) A telephone corporation shall disclose its rates, terms, and  
38 conditions of service and, upon request, provide its customers  
39 with a complete explanation of the charges comprising the  
40 customer’s bill. *A telephone corporation shall publish, and keep*

1 *current on an Internet Web site, the rates, terms, and conditions*  
2 *for services it offers for services for which it currently has*  
3 *customers.*

4 (2) A telephone corporation shall make no statement about  
5 rates and services that is deceptive, untrue, or misleading.

6 (3) (A) *A customer may cancel, without termination fees or*  
7 *penalties, any new service or contract for service within 30 days*  
8 *after the new service or contract for service is initiated.*

9 (B) A telephone corporation shall provide a customer with  
10 written confirmation of every order for service and a written  
11 copy of each contract between the telephone corporation and the  
12 customer. ~~A customer may cancel, without termination fees or~~  
13 ~~penalties, any new service or contract for service within 30 days~~  
14 ~~after the new service is initiated.~~

15 (C) *A contract for service may not incorporate other*  
16 *information by reference, except where the referenced*  
17 *information is provided in a separate document provided*  
18 *simultaneously with the contract.*

19 (D) *A written confirmation shall include the rates, terms, and*  
20 *conditions of service, including the customer's right to cancel the*  
21 *service within 30 days.*

22 (4) *A telephone corporation shall provide a contract to a*  
23 *customer and make the disclosures required pursuant to*  
24 *paragraphs (1) and (2) in the same language used to advertise*  
25 *the product or service, upon the customer's request.*

26 (5) Every advertisement of the price, rate, or unit value of a  
27 prepaid calling card or prepaid calling service shall include a  
28 disclosure of any geographic limitation on the advertised price,  
29 any minimum charges, any expiration policies, and any relevant  
30 fees or surcharges. If any language other than English is used in  
31 the advertising or promotion of the prepaid calling card or  
32 prepaid calling service the disclosure shall be in that language.

33 ~~(5)–~~

34 (6) A telephone corporation may not require a deposit to  
35 establish or reestablish service unless a customer is unable to  
36 demonstrate acceptable credit. No deposit imposed by a  
37 telephone corporation may exceed twice the estimated monthly  
38 bill for basic service. Every deposit shall be refunded after one  
39 continuous year of timely payments for basic service by the

1 customer, and not later than 30 days after basic service is  
2 discontinued.

3 ~~(6)–~~

4 (7) Every telephone corporation billing statement shall be  
5 clearly organized and *contain a clear and concise description of*  
6 *the product or service for which the charges are imposed. Every*  
7 *billing statement* may only contain charges for products and  
8 services which have been authorized by the customer. All  
9 mandated government taxes, surcharges, and fees required to be  
10 collected from customers and to be remitted to federal, state, or  
11 local governments shall be separately listed and identified as  
12 “government fees and taxes.” This section of the billing shall not  
13 include any charges for which the telephone corporation is not  
14 required to remit the moneys to the government.

15 ~~(7)–~~

16 (8) A telephone corporation shall credit payments effective the  
17 business day payments are received by the telephone corporation  
18 or its agent. No billing shall include any previously unbilled  
19 charge for intrastate service furnished more than three months  
20 immediately preceding the date of the billing, except that the  
21 billing may include roaming charges for mobile telephony  
22 services on a system other than the subscriber’s home system for  
23 up to four months immediately preceding the date of the billing,  
24 and the billing may include charges for collect, third-party, and  
25 calling card calls for up to the five months immediately  
26 preceding the date of the billing. Telephone corporations shall  
27 prorate charges for basic service for partial months. Billings shall  
28 be based on the rates in effect at the time the service was used.

29 ~~(8) A telephone corporation shall provide reasonable notice to~~  
30 ~~all affected customers of every proposed change in the~~  
31 ~~customer’s service agreement or any contract change that may~~  
32 ~~result in higher rates or charges or more restrictive terms or~~  
33 ~~conditions and any service agreement or contract change may not~~  
34 ~~be implemented without the express consent of the customer.~~

35 ~~(9)–~~

36 (9) *A telephone corporation shall not change a customer’s*  
37 *contract in a way that results in higher rates or more restrictive*  
38 *terms or conditions without the express consent of the customer.*

39 (10) A telephone corporation shall provide written notice to  
40 any customer whose payments are overdue not less than seven

1 calendar days prior to terminating service for nonpayment. Basic  
2 exchange service may not be disconnected on any day that  
3 telephone corporation representatives are not available to assist  
4 customers.

5 ~~(10)–~~

6 (11) A telephone corporation shall investigate a customer  
7 billing dispute and reach a determination and communicate that  
8 determination to the customer within 30 days. During the  
9 investigation of the customer billing dispute, no late charge or  
10 penalty may be collected from the customer, the charge in  
11 dispute may not be sent to collection, and no adverse credit  
12 report may be filed as to the customer. Disputes shall be resolved  
13 pursuant to California law and the forum for adjudication of  
14 disputes shall be the county in California in which the customer  
15 receives the billing or the customer's primary place of use of the  
16 service. *A telephone corporation shall not hold customers liable*  
17 *for costs resulting from complaints before the commission, other*  
18 *agencies, or arbitrators.*

19 ~~(11)–~~

20 (12) A telephone corporation shall designate one or more  
21 representatives to be available during regular business hours to  
22 accept Consumer Affairs Branch inquiries from the commission.  
23 The telephone corporation shall provide all documents and  
24 information requested by the branch.

25 ~~(12)–~~

26 (13) A telephone corporation shall issue an identification card  
27 to every employee who has occasion to enter the premises of  
28 customers on behalf of the telephone corporation. No telephone  
29 corporation shall misrepresent, or allow its employees to  
30 misrepresent, its association or affiliation with the corporation  
31 when soliciting or implementing the customer's agreement to  
32 purchase products or services.

33 ~~(13)–~~

34 (14) A telephone corporation shall provide every residential  
35 customer, and every mobile telephony handset that is  
36 technologically compatible with its system, with access to the  
37 9-1-1 emergency dialing system regardless of whether an account  
38 has been established.

39 (e) The commission shall, by July 1, 2006, develop and  
40 enforce consumer protection rules for charges for

1 noncommunications services on telephone corporation billings,  
2 that include all of the following:

3 (1) A telephone corporation billing may not contain  
4 noncommunications related charges unless the telephone  
5 corporation obtains the express written authorization of the  
6 customer and the telephone corporation uses a Personal  
7 Identification Number (PIN) or other equally reliable security  
8 procedure approved by the commission, that is designed to  
9 prevent persons or entities other than the customer and  
10 individuals authorized by the customer, from placing charges.

11 (2) A telephone corporation shall take reasonable precautions  
12 to screen vendors and billing agents before agreeing to provide  
13 billing services for noncommunications related charges by the  
14 vendor or billing agent, in order to screen out unreliable or  
15 untrustworthy business entities.

16 (3) A telephone corporation shall not disconnect basic  
17 telephone service for nonpayment of noncommunications related  
18 charges.

19 (4) A telephone corporation shall separately identify all  
20 noncommunications related charges on every billing, with clear  
21 and concise descriptions of the product or service for which a  
22 charge has been imposed.

23 SEC. 2. No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution because  
25 the only costs that may be incurred by a local agency or school  
26 district will be incurred because this act creates a new crime or  
27 infraction, eliminates a crime or infraction, or changes the  
28 penalty for a crime or infraction, within the meaning of Section  
29 17556 of the Government Code, or changes the definition of a  
30 crime within the meaning of Section 6 of Article XIII B of the  
31 California Constitution.